



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 13, 1995

Mr. Miles K. Risley
Assistant City Attorney
Legal Department
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR95-602

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32963.

The City of Victoria (the "city") received an open records request for records relating to two alleged assaults which occurred on March 20, 1995. You state that you have released to the requestor all related records except the supplementary offense reports. You state that the city attorney is currently prosecuting these assault cases under Cause Nos. 378410 and 378411. You contend that the supplementary offense reports are excepted from required disclosure by section 552.103 of the Government Code, commonly referred to as the litigation exception. You have submitted for our review copies of the related records which you state have been released and copies of the supplementary offense reports which have not been released. You argue that all of the information except that recognized as public by *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), and catalogued in Open Records Decision No. 127 (1976), may be withheld from disclosure.

Section 552.103(a) applies to information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 588 (1991). In this instance, you have made the requisite showing that the supplementary offense reports relate to pending litigation for purposes of section 552.103(a).

As a general rule, information which may be withheld is evidentiary information including: a) information identifying witnesses; b) an investigator's views regarding the guilt of a suspect or the credibility of witnesses; and c) records of property confiscated at the scene of the crime. Open Records Decision No. 127 (1976).

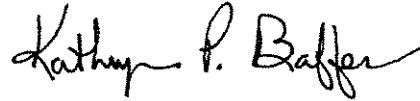
The kinds of basic information not excepted from disclosure include the following information about the crime: a) the name, age, address, race, sex, occupation, alias, and physical condition of the person; b) the location of the crime; c) the identification and description of the complainant; d) the premises involved; the time of the occurrence of the crime; and e) a detailed description of the offense. *Houston Chronicle Publishing Co.*, 531 S.W.2d 177, Open Records Decision No. 127 (1976) at 4.

After reviewing the submitted records, we note that the released information does not contain a detailed description of the offense which the *Houston Chronicle Publishing Co.* court determined to be public information. Detailed descriptions of the assaults, however, are located in the supplementary offense reports. We conclude that you must disclose information in accordance with that listed in *Houston Chronicle Publishing Co.* and in Open Records Decision No. 127 (1976). We note that it is the content of the information regardless of its location in the documents that determines whether information must be released under *Houston Chronicle Publishing Co.* See Open Records Decision No. 127 (1976) at 5.

We note that if the opposing parties in the litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). We note that some of the information in the supplementary offense reports is also located in the records you have already released to the requestor. Accordingly, such information may not now be withheld from disclosure to the requestor. In addition, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Kathryn P. Baffes". The signature is fluid and cursive, with the first name "Kathryn" being more prominent than the last name "Baffes".

Kathryn P. Baffes
Assistant Attorney General
Open Government Section

KPB/RHS/rho

Ref.: ID# 32963

Enclosures: Submitted documents

cc: Ms. Michelle Horelka
705 Lee Street
Victoria, Texas 77901
(w/o enclosures)